

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE TRUSTEES OF THE UNIVERSITY OF
PENNSYLVANIA,

Plaintiff,

v.

ELI LILLY AND COMPANY,
IMCLONE LLC, and
BRISTOL-MYERS SQUIBB COMPANY,

Defendants.

Civil Action No. 2:15-cv-06133-WB

**DEFENDANTS' MOTION TO DISMISS
IMPROPER MULTIPLE DEPENDENT CLAIMS 32–40
OF U.S. PATENT NO. 7,625,558**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Eli Lilly and Company, ImClone LLC, and Bristol-Myers Squibb (collectively “Defendants”) hereby move to dismiss Plaintiff Trustees of the University of Pennsylvania’s claims that Defendants infringe or have infringed claims 32 through 40 of U.S. Patent No. 7,625,558. As set forth in the accompanying Memorandum of Law, which is incorporated by reference as if set forth fully herein, claims 32 through 40 are improper multiple dependent claims that are invalid under 35 U.S.C. § 112 ¶ 5. It is therefore impossible, as a matter of law, for Defendants to infringe those claims.

Dated: January 15, 2016

Respectfully submitted.

/s/ Raymond B. Biagini

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CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2016, I caused the foregoing *Defendants' Motion to Dismiss Improper Multiple Dependent Claims 32–40 of U.S. Patent No. 7,625,558* to be filed electronically through the Court's CM/ECF system. Copies of the foregoing have been served by electronic mail on the following counsel of record:

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Dated: January 15, 2016

/s/ Raymond B. Biagini

Raymond B. Biagini